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OFFICE OF PETITIONS

In re Application of :
Mitsuhiko Uchida :
Application No. 10/633,280 : ON PETITION
Filed: 4 August, 2003 :
Attorney's Docket No. 1259-0235P :

This is a decision on the petition filed on 6 July, 2004, requesting that the above-identified application be accorded a filing date of 4 August, 2003, with Pages 1-4 of the specification as a part of the original disclosure.

The petition is granted.

The application was filed on 4 August, 2003.

Accordingly, on 10 May, 2004, Initial Patent Examination Division mailed a Notice of Omitted Items in a Nonprovisional Application, stating that the application had been accorded a filing date of 4 August, 2003, but that Pages 1-4 of the specification (description and claims) appeared to have been omitted.

In response, on 6 July, 2004, the present petition and a copy of Pages 1-27 of the specification were filed. Petitioner argues that Pages 1-4 of the specification were filed with the other application papers on 4 August, 2003, but were subsequently misplaced in the U.S. Patent and Trademark Office (Office). In support, a copy of petitioner's postcard receipt was supplied with the present petition. The postcard receipt shows an Office date stamp of 08/04/03, the above-identified application number, and identifies the application by the inventor's name, and attorney docket number, and acknowledges receipt of, *inter alia*, "Specification consisting of 33 pages". Petitioner requests that the application, including Pages 1-4 of the specification, be accorded a filing date of 4 August, 2003.

A review of the record reveals that no Pages 1-4 of the specification have been located among the application papers received on 4 August, 2003. However, the evidence is convincing that the application papers deposited on 4 August, 2003, included Pages 1-4 of the specification, which were subsequently misplaced in the Office. Therefore, the application, including Pages 1-4 of the specification, is entitled to a filing date of 4 August, 2003.

The "Notice" mailed on 10 May, 2004, is vacated.

In view of the above, the petition is granted. The petition fee of \$130.00 is unnecessary and will be refunded to counsel's deposit account, No. 02-2448.

The application will be processed with the copy of Pages 1-4 supplied on 6 July, 2004, as a part of the original disclosure. The copies of the other application papers filed with the present petition will not be used for processing or examination, but will be retained in the application file.

The application is being returned to Initial Patent Examination Division for further processing with a filing date of 4 August, 2003, using the application papers filed on that date, and the copy of Pages 1-4 of the specification supplied with the present petition.

Telephone inquiries should be directed to the undersigned at 703-308-6918.


Douglas I. Wood
Senior Petitions Attorney
Office of Petitions